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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 VAN HUA,

9 Plaintiff,

10 v.

11 BOEING CORPORATION, *et al.*,

12 Defendants.
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No. C08-0010RSL

ORDER DENYING PLAINTIFF'S
MOTION TO COMPEL AND
DEFENDANTS' MOTION FOR
PROTECTIVE ORDER

14 This matter comes before the Court on plaintiff's "Motion to Compel Answers to
15 Plaintiff's Interrogatories & Requests for Production to Defendants Brad Bradley and Boeing
16 Corporation" (Dkt. # 66) and "Defendants' Motion for Protective Order" (Dkt. # 68). All of
17 plaintiff's claims have been dismissed with the exception of the claim that defendants
18 intentionally discriminated against him under Title VII of the Civil Rights Act of 1964 and the
19 Washington Law Against Discrimination ("WLAD") when defendant Bradley failed to promote
20 him to a lead position in 2006. Most of the discovery discussed in plaintiff's motion to compel
21 is no longer relevant. Because the posting and withdrawal of the 2006 lead position was not
22 properly joined during discovery (plaintiff's deposition testimony convinced defendants that his
23 failure to promote claim involved an application made in 2004), the parties will be given an
24 opportunity to conduct additional discovery focused on this issue.

25 Although new discovery requests will supercede those at issue in the two pending
26 ORDER DENYING PLAINTIFF'S
MOTION TO COMPEL AND DEFENDANTS'
MOTION FOR PROTECTIVE ORDER

1 motions, the Court offers the following in the hopes of avoiding future discovery disputes:

2 (1) In order to succeed on his claims, plaintiff must show that defendant Bradley
3 intentionally discriminated against him based on his race or national origin. Defendant Boeing's
4 liability is based on a theory of *respondeat superior*. Plaintiff may not, therefore, engage in
5 wide-ranging discovery to see if Boeing has any practices or policies that disparately impact
6 Asians or Vietnamese or to determine whether any other Boeing employees discriminated
7 against plaintiff or members of his protected group.

8 (2) Discovery related to complaints levied against defendant Bradley over the past ten
9 years – including the period of time before he arrived at the Everett facility – is not unreasonable
10 or unduly burdensome. Although the relevance of disputes regarding absenteeism or allegations
11 of sex discrimination is probably minimal, plaintiff is entitled to the information absent a
12 showing of “annoyance, embarrassment, oppression, or undue burden or expense.” Fed. R. Civ.
13 P. 26(c).

14 (3) Information regarding defendant Bradley's interactions with other Asians or
15 Vietnamese within the workplace may be relevant. Discovery regarding his hiring, promotion,
16 or discipline of members of the relevant protected groups is appropriate.

17 (4) Because permissible discovery may reveal personal information regarding third
18 parties, the Court will enter a protective order governing such information.

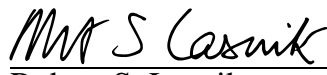
19 (5) Defendants have failed to show that any of the other information originally sought
20 by plaintiff, such as documentation regarding work orders, constitutes confidential financial or
21 trade secrets protected by state law.¹ Despite plaintiff's specific demand for these documents
22 and counsel's repeated challenge to their proposed designation as confidential, defendants insist
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24 ¹ Because plaintiff's claims regarding disparate job assignments have been dismissed, the work
25 order database itself is no longer relevant.

1 that they are entitled to a protective order that gives them broad discretion when designating
2 documents and that only after such designation is made may plaintiff object. Plaintiff has no
3 obligation to stipulate to a protective order and clearly has no interest in facilitating defendants'
4 discovery abuses. The Court instructs defendants not to designate as confidential generic
5 business documents with no apparent connection to protectable financial or trade secrets.
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7 For all of the foregoing reasons, plaintiff's motion to compel and defendants'
8 motion for protective order are DENIED. The Court will issue a protective order governing
9 third-party personal information and confidential financial or trade secrets protected by state
10 law. In addition, a new case management order will issue providing a limited period of time for
11 the parties to conduct discovery focused on the facts surrounding the failure to promote plaintiff
12 to the lead position in 2006.
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14 Dated this 17th day of April, 2009.

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16 Robert S. Lasnik
17 United States District Judge
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